

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

TOMMY EDWARD YOUNG JR.,

Petitioner,

v.

CIVIL ACTION NO. 2:13-cv-15854
(Criminal No. 2:09-cr-00223-2)

UNITED STATES OF AMERICA,

Respondent.

MEMORANDUM OPINION AND ORDER

Pending before the Court is Petitioner's Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody (the "Section 2255 Motion"). (ECF No. 259). On June 27, 2013, this action was referred to United States Magistrate Judge R. Clarke VanDervort for submission of proposed findings and recommendations for disposition ("PF&R"). (ECF No. 261.) On January 6, 2016, the Clerk transferred the referral of this action to United States Magistrate Judge Omar J. Aboulhosn. (ECF No. 313.) Magistrate Judge Aboulhosn filed his PF&R, (ECF No. 319), on May 6, 2016, recommending that this Court deny the Section 2255 Motion and dismiss this matter from the Court's docket.

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and a party's right to appeal this Court's

Order. 28 U.S.C. § 636(b)(1); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Objections to the PF&R in this case were due on May 23, 2016. To date, no objections have been filed.


Accordingly, the Court **ADOPTS** the PF&R, (ECF No. 319), **DENIES** the Section 2255 Motion, (ECF No. 259), **DISMISSES WITH PREJUDICE** this case, and **DIRECTS** the Clerk to remove this matter from the Court's docket.

It is further **ORDERED** that, pursuant to Rule 11(a) of the Rules Governing Section 2255 Proceedings for the United States District Courts, this Court declines to issue a certificate of appealability as Petitioner has not made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2); *Miller-El v. Cockrell*, 537 U.S. 322, 336–38 (2003) (in order to satisfy § 2253(c), a petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong) (citing *Slack v. McDaniel*, 529 U.S. 473, 484 (2000))). Pursuant to Rule 11(a), Movant may not appeal the District Court's denial of a certificate of appealability, but he may seek a certificate from the court of appeals under Federal Rule of Appellate Procedure 22.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: September 26, 2016



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE